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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,463	01/23/2002	Dennis Sunga Fernandez	FERN-P008	8163

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FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL
SUITE 201
MENLO PARK, CA 94025

EXAMINER	
MILLER, BRANDON J	

ART UNIT	PAPER NUMBER
2683	13

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/056,463	Applicant(s) FERNANDEZ ET AL.	
	Examiner Brandon J Miller	Art Unit 2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 March 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6, 9-13, 15-16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy in view of Weiser.

Regarding claim 1 Kennedy teaches a communication apparatus including a memory for storing one or more representation of a communicator located in an alert region (see col. 3, lines 49-55); and causing an alert message to be sent to at least one communicator in the alert region (see col. 3, lines 66-67 and col. 4, lines 1-7). Kennedy teaches sending an alert message in a proximate area for immediate notification or neighboring proximate area for subsequent advisory (see col. 3, lines 66-67 and col. 4, lines 1-7). Kennedy does not specifically teach wherein the alert message is generated automatically by computer software that checks for biological or toxic contamination sensed in the alert region. Weiser teaches an alert message that is generated automatically by a computer system that identifies emergencies sensed in an alert region, including in toxic waste environments (see col. 2, lines 44-58 and col. 3, lines 54-61). Weiser teaches sending the alert message in a proximate area for immediate notification or neighboring proximate area for subsequent advisory (see col. 3, lines 63-67 and col. 4, lines 1-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make

the device adapt to include wherein the alert message is generated automatically by computer software that checks for biological or toxic contamination sensed in the alert region because this would allow for an improved warning system compatible for a variety of emergency situations.

Regarding claim 2 Kennedy teaches an alert message to be sent in response to an alert request received from a requesting communicator located in the alert region (see col. 3, lines 44-58 & 66-67 and col. 4, lines 1-3).

Regarding claim 3 Kennedy teaches at least one communicator located in the alert region includes a locator for determining its location (see col. 3, lines 49-52).

Regarding claim 4 Kennedy teaches at least one communicator located in the alert region comprises a sensor for determining an alert condition (see col. 5, lines 24-33).

Regarding claim 5 Kennedy teaches an alert message that includes a location of a requesting communicator located in the alert region (see col. 9, lines 5-11).

Regarding claim 6 Kennedy teaches at least one representation stored in memory that indicates an availability or a qualification of the user associated with the corresponding communicator located in the alert region (see col. 4, lines 58-65).

Regarding claim 9 Kennedy teaches causing other messages to be sent subsequently to the alert message to at least one communicator in a neighboring region (see col. 5, lines 17-20 & 24-33).

Regarding claim 10 Kennedy teaches a communication network comprising a base station and one or more devices for communicating therewith (see col. 3, lines 25-32). Kennedy teaches a memory storing an identifier of a user of a device (see col. 3, lines 51-55). Kennedy teaches a user being pre-registered to send or receive an alert message to or from another device,

when both such devices are located in an alert region (see col. 3, lines 5-8 & 51-52). Kennedy teaches determining a location of the device (see col. 3, lines 49-51). Kennedy teaches sending an alert message in a proximate area for immediate notification or neighboring proximate area for subsequent advisory (see col. 3, lines 66-67 and col. 4, lines 1-7). Kennedy does not specifically teach wherein the alert message is generated automatically by computer software that checks for biological or toxic contamination sensed in the alert region. Weiser teaches an alert message that is generated automatically by a computer system that identifies emergencies sensed in an alert region, including in toxic waste environments (see col. 2, lines 44-58 and col. 3, lines 54-61). Weiser teaches sending the alert message in a proximate area for immediate notification or neighboring proximate area for subsequent advisory (see col. 3, lines 63-67 and col. 4, lines 1-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include wherein the alert message is generated automatically by computer software that checks for biological or toxic contamination sensed in the alert region because this would allow for an improved warning system compatible for a variety of emergency situations.

Regarding claim 11 Kennedy teaches a sensor for determining an alert condition to send the alert message (see col. 3, lines 16-24).

Regarding claim 12 Kennedy teaches a device as recited in claim 5 and is rejected given the same reasoning as above.

Regarding claim 13 Kennedy teaches an identifier that indicates an availability or a qualification of the user associated (see col. 4, lines 58-65).

Regarding claim 15 Kennedy teaches in a wireless network for signaling between a plurality of nodes including receiving from a first node a first alert message comprising a location of the first node; and sending to a second node located in a region comprising the location of a second alert message (see col. 2, lines 4-11, col. 3, lines 66-67, and col. 4, lines 1-3 & 34-44). Kennedy teaches sending an alert message in a proximate area for immediate notification or neighboring proximate area for subsequent advisory (see col. 3, lines 66-67 and col. 4, lines 1-7). Kennedy does not specifically teach wherein the first or second alert message is generated automatically by computer software that checks for biological or toxic contamination sensed in the region. Weiser teaches an alert message that is generated automatically by a computer system that identifies emergencies sensed in an alert region, including in toxic waste environments (see col. 2, lines 44-58 and col. 3, lines 54-61). Weiser teaches sending the alert message in a proximate area for immediate notification or neighboring proximate area for subsequent advisory (see col. 3, lines 63-67 and col. 4, lines 1-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include wherein the alert message is generated automatically by computer software that checks for biological or toxic contamination sensed in the alert region because this would allow for an improved warning system compatible for a variety of emergency situations.

Regarding claim 16 Kennedy teaches an alert message including an identifier of user associated with a first node, the user being pre-registered to send or receive alert messages to or from a second node, when both such devices are located in an alert region (see col. 3, lines 5-8 & 51-52).

Regarding claim 19 Kennedy teaches sending to a third party located in a neighboring region not comprising the location a third party alert message (see col. 3, lines 11-15).

Claims 7-8, 14, and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy in view of Weiser and Vinson.

Regarding claim 7 Kennedy and Weiser teach a device as recited in claim 1 except for a controller that causes the alert message to be sent to a first communicator using a first communication protocol, and a second communicator using a second communication protocol. Kennedy does teach causing an alert message to be sent to a first communicator and a second communicator (see col. 5, lines 24-27). Vinson teaches an alert notification system that uses a first communication protocol and a second communication protocol (see col. 10, lines 40-46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include a controller that causes the alert message to be sent to a first communicator using a first communication protocol, and a second communicator using a second communication protocol because this would allow for increased flexibility in an warning system that is compatible with existing telecommunications equipment.

Regarding claim 8 Kennedy and Weiser teach a device as recited in claim 1 except for a controller that causes an alert message to be sent using a first communication protocol in response to an alert request received by a controller from a requesting communicator located in the alert region using a second communication protocol. Kennedy does teach an alert message that is sent in response to an alert request received from a requesting communicator located in the alert region (see col. 3, lines 44-58 & 66-67 and col. 4, lines 1-3). Vinson teaches an alert notification system that uses a first communication protocol and a second communication

protocol (see col. 10, lines 40-46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include a controller that causes an alert message to be sent using a first communication protocol in response to an alert request received by a controller from a requesting communicator located in the alert region using a second communication protocol because this would allow for increased flexibility in an warning system that is compatible with existing telecommunications equipment.

Regarding claim 14 Vinson teaches an alert notification system that uses a first communication protocol and a second communication protocol (see col. 10, lines 40-46).

Regarding claim 17 Vinson teaches a device as recited in claim 14 and is rejected given the same reasoning as above.

Regarding claim 18 Vinson teaches an alert message that includes a time stamp (see col. 7, lines 3-5).

Response to Arguments

Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wallace et al. U.S. Patent 6,463,272 discloses a location reporting pager.

Wingren et al. U.S. Patent Application Publication US 2001/0041552 discloses a method and apparatus in a mobile communications network.

Day U.S. Patent 6,463,273 discloses a wireless warning system.

Weiser U.S. Patent 6,112,075 discloses a method of communicating emergency warning through an existing cellular communication network, and system for communicating such warnings.

Lemelson et al. U.S. Patent 6,608,559 discloses a danger warning and emergency response system and method.

Lauterbach et al. U.S. Patent 5,278,539 discloses an alerting and warning system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon J Miller whose telephone number is 703-305-4222. The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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June 1, 2004

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600